

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 UNITED STATES OF AMERICA,) Case No. 1:19-cr-132
5) Akron, Ohio
6 Plaintiff,) July 30, 2019
7) 2:13 p.m.
8 vs.)
9)
10 HARGIS HALL,)
11)
12 Defendant.)

13 TRANSCRIPT OF PROCEEDINGS
14 BEFORE THE HONORABLE KATHLEEN B. BURKE
15 UNITED STATES MAGISTRATE JUDGE

16 CHANGE OF PLEA HEARING

17 APPEARANCES:

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1 | PROCEEDINGS

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7 You may be seated.

8 The case before the court carries Case Number
9 1:19-cr-132, United States of America versus Hargis Hall.

10 THE COURT: So I am going to ask counsel to
11 introduce themselves. First counsel for the United States.

12 MR. MORRISON: Thank you, Your Honor. AUSA Elliot
13 Morrison on behalf of the United States.

14 THE COURT: And counsel for the defendant.

15 MS. KOTNIK: Good afternoon, Your Honor. Rhonda
16 Kotnik on behalf of Mr. Hall.

17 THE COURT: All right. And I have been advised
18 that Mr. Hall does wish to plead guilty to Counts 1 and 2 of
19 the indictment. I will talk with him about his right to
20 change his mind about that as we proceed here. But the
21 first thing I need to address is the consent, his consent to
22 my jurisdiction in this matter.

23 I am looking to see if I (unintelligible) -- here
24 it is.

25 All right. So, Mr. Hall, I'm holding up a

1 document that's called "Consent to order of referral to
2 Magistrate Judge for purposes of receiving defendant's
3 guilty plea." I am going to turn to the second page and ask
4 if your signature is on the top line on the right side of
5 the page.

6 THE DEFENDANT: Yes, ma'am, I signed that paper.

7 THE COURT: And before you signed this document,
8 Mr. Hall, did you have a chance to read it and to discuss it
9 with your attorney, Ms. Kotnik?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: You understand that you have the right
12 to offer your plea of guilty to a United States district
13 judge, and that by submitting this consent, you are giving
14 up that right and you are agreeing that I may receive your
15 plea; do you understand that?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Okay. Is it your wish to consent to
18 my jurisdiction in this matter?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: All right. Your consent is accepted.

21 I'm now going to review the purposes of this
22 proceeding with you, Mr. Hall. The purposes include
23 establishing that you are competent to make a plea,
24 establishing that your plea is free and voluntary, making
25 certain that you understand the charges made against you,

1 the penalties associated with those charges and the
2 constitutional rights that you will be giving up if you
3 plead guilty.

4 After we cover those things, I will ask questions
5 of you and the prosecutor to determine whether there is a
6 factual basis for a plea.

7 And after we cover those things, I will ask you
8 how you plead.

9 I do want you to understand that even though
10 you've expressed an intent to plead guilty, you have the
11 right to change your mind and to stand by your original plea
12 of not guilty at any time up until the end of the proceeding
13 when I ask you how you plead.

14 Do you understand those instructions?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: During the proceeding today, Mr. Hall,
17 I will be asking you a number of questions. We have a court
18 reporter here who will be recording my questions and your
19 answers. You will need to put your answers in words because
20 she cannot record a nod of the head or other gesture.

21 If you don't understand a question, you should say
22 so and I will do my best to explain it to you.

23 Also, if you wish to speak with your attorney, you
24 may do that at any time during the hearing.

25 I do want you to know that the purpose of my

1 questions is to determine whether you are competent to
2 understand the charges against you and competent to enter a
3 plea. The questions are not intended to embarrass you.

4 Do you understand those instructions?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Mr. Hall, you do have a right to
7 remain silent. You're not required to make any statement.
8 And any statement you do make may be used against you.

9 Before I receive your plea, I will need to ask you
10 a number of questions to make sure that your plea is valid.
11 By answering those questions, you will be making statements
12 against your interest and you will incriminate yourself.

13 Do you understand that by proceeding here today
14 with a plea of guilty, you will necessarily give up your
15 right to remain silent?

16 THE DEFENDANT: Yes. Yes, ma'am.

17 THE COURT: Now the courtroom deputy will place
18 the defendant under oath.

19 THE CLERK: Please raise your right hand.

20 (Defendant sworn.)

21 THE COURT: Mr. Hall, you have now been sworn and
22 you are under oath to tell the truth. Your answers to my
23 questions will be subject to the penalties for perjury if
24 they are not truthful.

25 Do you understand that instruction?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: I am going to start with some
3 questions that relate to your competence to enter a plea
4 today. I'll start by asking you to state your full name.

5 THE DEFENDANT: Hargis A. Hall.

6 THE COURT: Okay. And how old are you, Mr. Hall?

7 THE DEFENDANT: Forty-six.

8 THE COURT: And are you a citizen of the United
9 States?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: How far did you go in school,
12 Mr. Hall?

13 THE DEFENDANT: I got my GED and I went to some
14 college.

15 THE COURT: Okay.

16 THE DEFENDANT: Technical college.

17 THE COURT: What kind of college?

18 THE DEFENDANT: Technical college.

19 THE COURT: Okay. And what were you studying at
20 the technical college?

21 THE DEFENDANT: Motorcycle technologies.

22 THE COURT: Okay. I take it from your answers to
23 my questions, Mr. Hall, that you can both speak and
24 understand English, correct?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: And are you also able to read and
2 write in English?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Are you currently on probation, parole
5 or supervised release for any other state or federal
6 conviction?

7 THE DEFENDANT: No, ma'am.

8 THE COURT: Within the last year, Mr. Hall, have
9 you been hospitalized or treated for either a mental
10 illness, a drug addiction or an alcohol addiction?

11 THE DEFENDANT: No, ma'am. I've been in state
12 prison for the last year.

13 THE COURT: I understand that. Sometimes when in
14 prison there are treatment programs for those kind of
15 things. So you're saying that you have not been treated?

16 THE DEFENDANT: No, ma'am.

17 THE COURT: Okay.

18 THE DEFENDANT: My time wasn't long enough for me
19 to get into one --

20 THE COURT: Okay.

21 THE DEFENDANT: -- is what they told me. I signed
22 up for the IOP and the BOP or BIP or something like that.
23 And they said they take other -- my sentence wasn't long
24 enough for me to be there to do it, so ...

25 THE COURT: Okay. In the last 24 hours, Mr. Hall,

1 have you taken any medication or drugs or alcohol?

2 THE DEFENDANT: No, ma'am.

3 THE COURT: Do you feel that you understand why we
4 are here today, what the purpose of this proceeding is?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Can you explain that in your own
7 words, your understanding of what -- why we are here today?

8 THE DEFENDANT: To plead guilty to some mistakes
9 that I've made in the past.

10 THE COURT: Okay. Ms. Kotnik, do you have any
11 doubts or concerns about Mr. Hall's competence to plead
12 today?

13 MS. KOTNIK: No, Your Honor.

14 THE COURT: And, Mr. Morrison, do you have any
15 concerns about Mr. Hall's competence?

16 MR. MORRISON: No, Your Honor.

17 THE COURT: Mr. Hall, I am going to talk with you
18 now about your right to counsel. At the time of your
19 arraignment, you were advised that you have a right to an
20 attorney at every stage of the proceedings in this case, and
21 that if you are not able to afford to hire an attorney, the
22 court could appoint one without cost to you.

23 Do you understand your right to an attorney?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: The court previously appointed Rhonda

1 Kotnik, who is seated next to you, to be your attorney.

2 Do you understand that you are represented by
3 Ms. Kotnik for this case?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Have you had enough time to discuss
6 the charges made against you in the indictment with
7 Ms. Kotnik -- with Ms. Kotnik?

8 THE DEFENDANT: Yes, her and I went over the case
9 a few times.

10 THE COURT: Okay. And have you told Ms. Kotnik
11 everything you know about the case, including the facts of
12 the case?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Are you completely satisfied with
15 Ms. Kotnik's representation of you and the advice that she
16 has given you?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: I am now going to talk with you about
19 the various constitutional rights you will be giving up if
20 you plead guilty, Mr. Hall. I'll go through those one by
21 one.

22 The first is your right to a trial, including the
23 right to a jury trial. You do have the right to stand by
24 your plea of not guilty and to require the government to
25 prove its case at trial.

1 You would have a right to a trial by jury and the
2 right to the assistance of counsel at trial.

3 At trial you would be presumed innocent. You
4 would not have to prove you're innocent. Rather, the
5 government would be required to prove you guilty by
6 competent evidence beyond a reasonable doubt as to every
7 element of the offenses charged against you.

8 Do you understand your right to a trial, including
9 the right to jury trial?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Do you understand that by pleading
12 guilty, you will be giving up that right?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: You have a right to compulsory
15 process. What that means is that if the case went to trial,
16 you would have the right to have the court issue subpoenas
17 to require the attendance of witnesses who would testify in
18 your defense.

19 You understand that right?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: You understand that by pleading
22 guilty, you will be giving up that right?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: You have the right to confront
25 witnesses. If the case went to trial, you would have the

1 right to see, to hear and to have your attorney
2 cross-examine every witness that the government would
3 present against you.

4 Do you understand that right?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: And do you understand that by pleading
7 guilty, you will be giving up that right?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: You have the right to remain silent.
10 If the case went to trial, you would have the right to
11 remain silent at trial. You could testify if you chose to,
12 but you could also choose not to testify.

13 If you chose not to testify, the court would
14 instruct the jury that the jury could draw no inference or
15 suggestion of guilt from the fact that you chose not to
16 testify.

17 Do you understand your right to remain silent at
18 trial?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Do you understand that by pleading
21 guilty, you will be giving up that right?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: You have a right against
24 self-incrimination. As I mentioned earlier, if you proceed
25 with a plea of guilty, I will need to ask you questions in

1 order to satisfy myself that there is a valid basis for a
2 guilty plea. In answering those questions, you will give up
3 your right to -- not to incriminate yourself and you will
4 have to acknowledge your guilt in order to make a valid
5 guilty plea.

6 Do you understand your right not to incriminate
7 yourself?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Do you understand that by pleading
10 guilty, you will be giving up that right?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: In summary, if you plead guilty and if
13 the district judge accepts your plea, you will give up your
14 right to a trial and the other rights that I've just
15 described to you. There will be no trial, and the district
16 judge will enter a judgment of guilty and will sentence you
17 based on your guilty plea after considering your presentence
18 report.

19 Do you understand that?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Do you understand that the offenses to
22 which you are pleading guilty are felony offenses, and that
23 a judgment of guilty may deprive you of valuable civil
24 rights, including the right to the vote, the right to hold
25 public office, the right to serve on a jury and the right to

1 possess a firearm?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: I am now going to go over the nature
4 of the charges made against you in the indictment.

5 Mr. Hall, have you received a copy of the
6 indictment?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: There are two counts in the
9 indictment, Mr. Hall.

10 Count 1 charges you with violating 21, United
11 States Code, Sections 841(a)(1) and (b)(1)(C), which
12 pertains to distribution of controlled substances.

13 Count 2 charges you with violating 21, United
14 States Code, Section -- Sections 841(a)(1) and (b)(1)(A),
15 which also pertains to distribution of controlled
16 substances.

17 Have you discussed with your attorney, Ms. Kotnik,
18 the charges in Counts 1 and 2 of the indictment?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Do you understand those charges?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: I'm now going to go through the
23 elements of the offense, of the offenses charged in Counts 1
24 and 2. There are two elements to each of those offenses.

25 The elements are set forth at page 3, paragraph 11 of your

1 plea agreement if you would like to follow along.

2 The two elements are, one, the defendant, which
3 would be you, Mr. Hall, knowingly or intentionally
4 distributed a controlled substance; and two, the defendant
5 knew at the time of distribution that the substance was a
6 controlled substance.

7 Mr. Hall, do you understand each of those
8 elements?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Do you have any questions regarding
11 either of the two elements?

12 THE DEFENDANT: No, ma'am.

13 THE COURT: Ms. Kotnik, have you gone over the
14 elements of the offenses with Mr. Hall?

15 MS. KOTNIK: Yes, Your Honor.

16 THE COURT: Do you believe that he understands the
17 elements?

18 THE DEFENDANT: Yes, he does.

19 THE COURT: I am now going to ask Mr. Morrison, as
20 counsel for the United States, to state the penalties
21 associated with the charges in the indictment, including any
22 maximum possible penalty, any minimum penalty, or if any
23 forfeiture, applicable costs that would be imposed, special
24 assessment. And with regard to the penalties, the maximum
25 penalties also, including a fine or a term of supervised

1 release.

2 MR. MORRISON: Thank you, Your Honor.

3 Count 1, as you mentioned, is a violation of 21,
4 U.S.C., Section 841, punishable under (b) (1) (C) of that
5 provision. And that's subject to up to 20 years in prison,
6 up to a \$1 million fine, a mandatory minimum of three years
7 of supervised release and up to life on supervised release.

8 Count 2 is punishable under Section 841(b) (1) (A),
9 which is for a higher weight of methamphetamine in this
10 case. And that's punishable by up to life in prison, a
11 mandatory minimum of ten years in prison, a maximum
12 statutory fine of \$10 million, a minimum period of
13 supervised release by statute of five years, and again, up
14 to life on supervised release.

15 Both of Counts 1 and 2 each require a \$100 special
16 assessment, for a total of \$200, due immediately upon
17 sentencing.

18 As Your Honor indicated, the court is also
19 empowered to order the defendant to pay costs of prosecution
20 and sentence, including but not limited to imprisonment,
21 community confinement, home detention, probation and
22 supervised release.

23 Restitution could be ordered, but we don't believe
24 that that's at issue. We believe that this is, under the
25 law, a victimless crime.

1 There's also, of course, additional penalties that
2 could be imposed if the defendant were to be placed on
3 supervised release and then to violate the conditions of
4 supervised release.

5 THE COURT: There is a forfeiture provision in the
6 indictment, correct, Mr. Morrison?

7 MR. MORRISON: Thank you for drawing my attention
8 to that, Your Honor. Yes. There is a general forfeiture
9 count in the indictment. The United States has elected not
10 to pursue forfeiture in this -- in this case.

11 THE COURT: All right.

12 MR. MORRISON: So there will be no forfeiture
13 sought.

14 THE COURT: I take it that there are no
15 immigration consequences related to this matter?

16 MR. MORRISON: Yes, correct. The defendant is a
17 United States citizen. This provision is only in it to make
18 him and every other defendant aware of the possibility, but
19 we do not believe that that's at issue for him.

20 THE COURT: With regard to whether the offenses
21 are probationable, Mr. Morrison, it appears that one is,
22 because it doesn't have a mandatory minimum in this count?

23 MR. MORRISON: That's correct, Your Honor.

24 THE COURT: Count 2 is not probationable, correct?

25 MR. MORRISON: I apologize for interrupting, but

1 that is exactly correct.

2 THE COURT: All right. So, Mr. Hall, did you
3 understand what Mr. Morrison said about the potential
4 penalties associated with the counts in the indictment?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Mr. Morrison mentioned a potential
7 term of supervised release following a term of imprisonment.

8 Do you understand that if you are placed on
9 supervised release and if you violate a condition of your
10 supervised release, you may be sent back to prison for the
11 violation?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Do you also understand that under some
14 circumstances, the term for a violation of supervised
15 release, when added to the initial term, may exceed the
16 maximum for the underlying offense?

17 Do you understand that?

18 THE DEFENDANT: Can you repeat that?

19 THE COURT: I wasn't very clear, was I?

20 So if you're sent- -- if you finished your prison
21 term and you're on supervised release and you violate your
22 supervised release, you can be sent back to prison. And in
23 some circumstances, the additional time that you serve for
24 the violation, when you add it to your original term for the
25 offense that you were convicted of, those two together, can

1 sometimes be greater than the maximum for the original
2 offense.

3 Do you understand that?

4 THE DEFENDANT: Yeah.

5 THE COURT: Okay.

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Mr. Hall, is your -- I am going to ask
8 you some questions related to the voluntariness of your plea
9 agreement and your plea.

10 Is your decision to plead guilty a decision that
11 you have made freely without any coercion?

12 THE DEFENDANT: Yes. Yes, ma'am.

13 THE COURT: Has anyone threatened you or
14 threatened anyone else or forced you in any way to plead
15 guilty?

16 THE DEFENDANT: No, ma'am.

17 THE COURT: I have been advised that you and your
18 attorney have entered into a plea agreement with counsel for
19 the government, correct? Is that correct? You have a plea
20 agreement?

21 THE DEFENDANT: Oh, yes. Yes, ma'am.

22 THE COURT: I am going to hold up what's been
23 provided to me as the plea agreement for the purpose of
24 having you identify it.

25 The plea agreement has a set of initials in the

1 lower right corner of each page. The initials are HH.

2 Did you place those initials there?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Okay. And then on the last page of
5 the plea agreement there are some signatures, Mr. Hall.

6 Is your signature on the top line on that last
7 page?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: And, Ms. Kotnik, your signature is on
10 the second line under Mr. Hall's, correct?

11 MS. KOTNIK: That's correct, Your Honor.

12 THE COURT: And, Mr. Morrison, yours is on the
13 third line, correct?

14 MR. MORRISON: Yes, Your Honor.

15 THE COURT: Mr. Hall, before you signed the plea
16 agreement, did you have an opportunity to read it and
17 discuss it with your attorney?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Do you feel that you understand the
20 terms of the plea agreement?

21 THE DEFENDANT: I do.

22 THE COURT: All right. I'm now going to ask
23 Mr. Morrison to state the substance of the plea agreement.
24 After he does that, I will ask Ms. Kotnik and Mr. Hall if
25 they agree with what he has said.

1 Mr. Morrison.

2 MR. MORRISON: Thank you, Your Honor. As
3 indicated, the defendant's agreed to plead guilty to both
4 charges against him in the indictment, Counts 1 and 2, and
5 the government has agreed not to bring any other charges
6 against the defendant for violations known to our office on
7 the date of the execution of this agreement as it relates to
8 this investigation.

9 The parties have also entered into certain
10 stipulations as it concerns the United States Sentencing
11 Guidelines. We've agreed to recommend that the court adopt
12 these stipulations. But the defendant understands that
13 these are simply recommendations and that they're not
14 binding on the court.

15 Specifically, in paragraph 17, we've agreed to
16 recommend a base offense level of 50 -- of 30 under
17 2D1.1(c) (4), that being for 50 grams or more of actual
18 methamphetamine.

19 And the government and the defendant agreed that
20 unless otherwise agreed to below, the parties agree that no
21 other specific offense characteristics or adjustments or
22 departures apply, except for the possible application of the
23 safety valve provision, should the defendant choose to avail
24 himself of that.

25 And based on those stipulations, the parties have

1 agreed to jointly recommend a sentence in the advisory
2 guidelines range as described in paragraph 14.

3 The parties have no agreement about what
4 defendant's criminal history category is, and under -- and
5 the defendant understands that will be determined by the
6 court after the preparation of a PSR.

7 I should state that Ms. Kotnik and I, however,
8 have conferred about this, and it's our understanding and
9 expectation that it's likely he'll fall in Criminal History
10 Category II.

11 The defendant also agrees to waive most of his
12 appeal rights. Specifically, all rights other than those
13 specifically set forth as preserved in paragraph 20 of the
14 plea agreement. Those being the right to appeal a
15 punishment in excess of the statutory minimum, or a sentence
16 to the extent it exceeds the maximum of the guidelines range
17 using the stipulations in this agreement and the criminal
18 history category that's found applicable by the court. And,
19 of course, he also always maintains the ability to pursue
20 remedies for -- under collateral attack for claims of
21 ineffective assistance of counsel or prosecutorial
22 misconduct.

23 The defendant also waives certain statutory
24 defenses, such as the statute of limitations.

25 And there are some additional miscellaneous

1 provisions in here, but I think that summarizes the sum and
2 substance of the agreement, unless Your Honor would like me
3 to go into more detail on anything else.

4 THE COURT: No. We will cover the factual basis
5 for the agreement separately.

6 MR. MORRISON: Thank you.

7 THE COURT: Mr. -- Ms. Kotnik, let me ask first
8 whether you agree with Mr. Morrison's summary of the plea
9 agreement and whether you have any changes or addition to
10 make to what he has said.

11 MS. KOTNIK: Judge, I do agree, we do agree with
12 the summary.

13 THE COURT: Okay. Mr. Hall, do you agree with
14 what Mr. Morrison has said and do you have any changes?

15 THE DEFENDANT: I agree, and I'm fine.

16 THE COURT: Mr. Hall, has anyone, including either
17 your attorney, the attorney for the United States or the
18 court made any promise to you other than what's contained in
19 the plea agreement in order to persuade you to plead guilty?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: I am now going to discuss a few
22 matters of sentencing with you. First I'm going to hold up
23 a document that's called a sentencing table.

24 Have you seen that document?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: And do you understand how the
2 sentencing table works?

3 THE DEFENDANT: It was explained to me by my
4 lawyer, by my attorney.

5 THE COURT: I'm going to give you an example which
6 has nothing to do with your case, but just for the purpose
7 of making sure that you understand how the table works, with
8 the offense levels down the left side and the criminal
9 history category at the top.

10 If we had an offense level of 3 with a criminal
11 history category of VI, can you tell me what the guideline
12 range would be for that?

13 THE DEFENDANT: 3 to 9 months.

14 THE COURT: And that is in months, correct?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: All right. Mr. Hall, I don't want to
17 know what you discussed with your attorney, but whether
18 you've had an opportunity to discuss with your attorney how
19 the guidelines might apply to your case.

20 Have you discussed that topic? Not the specifics
21 of what you discussed.

22 MS. KOTNIK: (Unintelligible.)

23 THE DEFENDANT: What we discussed, yes, yes,
24 ma'am.

25 THE COURT: I'm now going to direct your attention

1 to paragraphs 12 through 19 of the plea agreement. This
2 paragraph starts on page 3 and goes over to page 5.

3 Mr. Hall, do you understand that these paragraphs
4 discuss the application of the sentencing guidelines to your
5 case?

6 THE DEFENDANT: Yes, I understand that.

7 THE COURT: Okay. In looking at paragraph 17, do
8 you understand that the parties have no agreement as to what
9 criminal history category applies to your case, and that the
10 district court will determine your criminal history category
11 after reviewing the presentence investigation report?

12 MS. KOTNIK: (Unintelligible.)

13 THE DEFENDANT: Yes, yes, Your Honor.

14 THE COURT: Okay. And I think your attorney
15 clarified for you. I know Mr. Morrison did say that your
16 attorney and he believed you're a Criminal History Category
17 II, but I just want to make sure that you understand that
18 the final decision on that will be made by the district
19 judge.

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Okay. And looking at paragraph 13, do
22 you understand that there is no agreement between the
23 parties as to the guideline range that applies to your case,
24 and that the district judge will determine the guideline
25 range after reviewing the presentence report?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: I am going to direct your attention
3 now to paragraph 15 of your plea agreement, which is at the
4 bottom of page 4. That paragraph reads, "Sentencing
5 Recommendations Not Binding on the Court." It says,
6 "Defendant understands that the recommendations of the
7 parties will not be binding on the court, that the court
8 alone will decide the advisory guideline range under the
9 sentencing guidelines, whether there is any basis to depart
10 from that range or impose a sentence outside the guideline
11 range and what sentence to impose.

12 "Defendant further understands that once the court
13 has accepted defendant's guilty plea, defendant will not
14 have the right to withdraw such a plea if the court does not
15 accept the sentencing recommendations made on defendant's
16 behalf or if defendant is otherwise dissatisfied with the
17 sentence."

18 I want to make sure that you understand that
19 paragraph, Mr. Hall. Do you understand that if I recommend
20 that the district judge accept your plea and if the district
21 judge accepts that recommendation, you will not be able to
22 withdraw your guilty plea?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: You also understand that sentencing
25 rests within the discretion of the court?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: And that federal law requires the
3 court to impose a sentence that is reasonable, and that the
4 court must consider the guideline range in determining what
5 is a reasonable sentence?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: As mentioned earlier, the court will
8 determine the guideline range after determining what the
9 criminal history category is based upon a presentence
10 report.

11 Do you understand that?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Do you understand that the sentence
14 the court imposes on you may be different from any estimate
15 that your attorney may have given you?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: And that you understand that if the
18 court imposes a sentence that is different than what is
19 recommended by either your attorney or the attorney for the
20 government, you will not have the right to withdraw your
21 guilty plea, correct?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: I am now going to direct your
24 attention to paragraph 20 of the plea agreement, which is on
25 page 6. Mr. Morrison did review this paragraph. This is

1 the paragraph in which you waive, that is, give up your
2 right to appeal or to attack your conviction or sentence in
3 a post-conviction proceeding with certain limited
4 exceptions.

5 The exceptions are if the court impose a
6 sentence -- imposes a sentence that is greater than the
7 statutory maximum, or if the court imposes a sentence that
8 is greater than the guideline range determined under the
9 guidelines in accordance with the parties' sentencing
10 stipulations and using the criminal history category found
11 applicable by the court.

12 Also, you reserve the right, your rights with
13 respect to any claim of ineffective assistance of counsel or
14 prosecutorial misconduct.

15 With those exceptions, you are giving up your
16 right to appeal your conviction and sentence or to attack
17 your conviction and sentence in a post-conviction
18 proceeding.

19 Do you understand that, Mr. Hall?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Do you understand that under some
22 circumstances, the government may have the right to appeal
23 the sentence that is imposed?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Do you understand that parole has been

1 abolished, and that if you are sentenced to prison, you will
2 not be released on parole?

3 THE DEFENDANT: Isn't it -- yes, ma'am.

4 THE COURT: Okay. Mr. Hall, having discussed your
5 rights with you, do you still wish to proceed with the
6 guilty plea?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Okay. I'm now going to ask
9 Mr. Morrison to review the facts that would support a guilty
10 plea in this case. The facts are set forth in paragraph 22
11 of the plea agreement, which is on page 7. After
12 Mr. Morrison states the facts, I will ask if you agree with
13 what he has said as well.

14 MR. MORRISON: Thank you, Your Honor.

15 First, on August 28th, 2018, in Ashtabula, Ohio,
16 the defendant knowingly and intentionally distributed about
17 27.35 grams of a mixture and substance containing a
18 detectable amount of methamphetamine, which is a Schedule II
19 controlled substance.

20 Specifically, he agreed to and did sell an ounce
21 of crystal methamphetamine to a person identified as person
22 1 for \$700, and testing revealed that to be the
23 aforementioned amount of methamphetamine.

24 Then, on September 4th, 2018, again in Ashtabula,
25 Ohio, both places be- -- Ashtabula, Ohio, being in the

1 Northern District of Ohio, Eastern Division, the defendant
2 knowingly and intentionally distributed approximately 55.4
3 grams of pure methamphetamine, a Schedule II controlled
4 substance.

5 And specifically, on that date, he agreed to and
6 did sell 2 ounces of crystal methamphetamine to person 1 for
7 \$1,400, and testing later revealed that to be approximately
8 56 grams of a mixture or substance that was tested to be 99
9 percent pure methamphetamine, resulting in the 55.4 grams of
10 pure methamphetamine figure.

11 And the defendant knew at both of the above times
12 that the substances he was selling and distributing were, in
13 fact, controlled substances.

14 THE COURT: Mr. Hall, do you agree with the facts
15 that Mr. Morrison has stated?

16 THE DEFENDANT: Yes, ma'am. That's what happened.

17 THE COURT: Do you have any changes that you wish
18 to make in the facts that he has stated?

19 THE DEFENDANT: I mean, no. I mean, I didn't have
20 the drugs on me. I mean, it wasn't like I was the
21 distributor of the drugs. Just I called someone to get them
22 procured for these people. But in the end, the fact is,
23 yes, I did sell the drugs to the guy.

24 THE COURT: All right. So you admit that the
25 facts that Mr. Morrison stated and that are set forth in

1 paragraph 22 are true?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Mr. Morrison, is there any right or
4 any procedural provision that I failed to take account of
5 before I ask Mr. Hall how he pleads?

6 MR. MORRISON: No, Your Honor. Thank you.

7 THE COURT: Ms. Kotnik?

8 MS. KOTNIK: Okay.

9 THE DEFENDANT: I had to call somebody and have it
10 brought to me. It wasn't that I was the one that had all
11 the drugs and was selling the drugs. I made the phone call
12 and went and picked it up. And then the second time I made
13 the phone call I had someone bring it to me.

14 MR. MORRISON: Your Honor, I might be able to
15 short-circuit something that's going on here by just adding
16 to that that the government would not disagree that the
17 defendant was something of a middleman in both of these drug
18 deals.

19 That when he was contacted to -- about procuring
20 this methamphetamine, we don't believe that he had the
21 methamphetamine on him at the time he was contacted. It's
22 our understanding that on both occasions he was contacted
23 for methamphetamine. He then reached out to a third party
24 and arranged to obtain the requested methamphetamine from
25 that third party, which he did obtain, and then almost

1 immediately sell to person 1 as described in the factual
2 basis.

3 I think that's -- I think that's what he's trying
4 to bring to the court's attention.

5 THE COURT: I think that sounds like what Mr. Hall
6 was trying to say.

7 So the question is whether anything about that
8 changes whether there is a factual basis for a plea of
9 guilty, and it sounds to me like he did sell the drugs, even
10 though he did not -- that -- even though he was the
11 middleman in the sales transaction, he got them from
12 somebody else and then he sold them.

13 Am I correct, Mr. Morrison?

14 MR. MORRISON: That is correct, Your Honor.

15 THE COURT: And, Ms. Kotnik?

16 MS. KOTNIK: Yes, Your Honor.

17 THE COURT: So I just want to make sure that we
18 don't have any issues with whether there's a factual basis
19 for the guilty plea. It doesn't sound to me like there is.

20 And you're in agreement with that, Ms. Kotnik?

21 MS. KOTNIK: Yes, Your Honor, yes.

22 THE COURT: All right. And so I think I already
23 did ask, but if I didn't, I will ask you now, Mr. Hall, do
24 you admit that the facts stated are true?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: I'm now prepared to receive your plea,
2 Mr. Hall. Before I ask you how you plead, you have the
3 right to speak with your attorney.

4 Do you wish to speak with your attorney?

5 THE DEFENDANT: Yes, just for a second.

6 (Discussion held off the record.)

7 THE DEFENDANT: Yeah, that's fine.

8 THE COURT: Okay. And you can also ask me any
9 questions before I ask you how you plead.

10 Do you have any questions for me, Mr. Hall?

11 THE DEFENDANT: I think everything has been
12 answered pretty much, ma'am.

13 THE COURT: Okay. Mr. Hall, now that I've advised
14 you of your rights and have received evidence as to your
15 competence and as to the factual basis for a guilty plea,
16 how do you plead to Counts 1 and 2 of the indictment, guilty
17 or not guilty?

18 THE DEFENDANT: Guilty, Your Honor.

19 THE COURT: And are you pleading guilty, Mr. Hall,
20 because you are, in fact, guilty of those offenses?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: It is my finding that the defendant,
23 Hargis Hall, is fully competent to and capable of entering
24 an informed plea. That he is aware of the nature of the
25 charges brought against him and the consequences of his

1 plea. That there is a factual basis for Mr. Hall's plea.
2 And that his plea of guilty to the offenses charged in
3 Counts 1 and 2 of the indictment is a knowing and voluntary
4 plea that is supported by an independent basis in fact as to
5 each of the essential elements of the offenses charged.

6 I therefore will recommend that the district judge
7 approve the plea agreement, accept Mr. Hall's plea and
8 adjudge him guilty of the offenses charged in Counts 1 and 2
9 of the indictment.

10 Mr. Hall, the court will ask for a presentence
11 investigation report to be prepared prior to sentencing. It
12 is in your best interest to cooperate with the probation
13 office in providing information that they may request for
14 the report since it will be an important factor in the
15 decision as to what your sentence will be.

16 You and your counsel will have a right and an
17 opportunity to examine the report and commented on --
18 comment on it at the time of sentencing.

19 Also, if you are interviewed by the probation
20 office, you have a right to have your attorney present with
21 you during the interview.

22 The sentencing hearing is set for 10 a.m. on
23 November 19th, 2019, before Judge Sara Lioi. And that will
24 take place on the fifth floor of this courthouse in Judge
25 Lioi's courtroom.

1 Mr. Hall, you were previously ordered detained,
2 and that order will remain in effect. So at this time, you
3 will remanded to the custody of the United States Marshal
4 pending your sentence.

5 THE CLERK: All rise. Court is adjourned.

6 (Thereupon, proceedings concluded at 2:55 p.m.)

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C E R T I F I C A T E

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3 I certify that the foregoing is a correct transcript,
4 to the best of my ability, transcribed from a digital
5 audio recording from the record of proceedings in the
6 above-entitled matter.

7

8

/s/ Mary L. Uphold

Mary L. Uphold, RDR, CRR

August 13, 2019

Date

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